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of California, State Government. During this transition stage these territories were governed under the direction of the President as military executive and according to a method not expressly sanctioned by the Constitution. This Mr. Thomas correctly describes as military government. As to Louisiana, Florida, New Mexico and California Mr. Thomas' account involves practically a political history of those Territories during the territorial period. The history of Alaska, Hawaii, Porto Rico, the Philippines, Samoa and the Panama Canal zone are treated with far less detail, rather too much so as compared with the treatment of the domestic Territories, it seems to the reviewer. No one can read Mr. Thomas' monograph and escape the conviction that the American doctrine of the supremacy of the civil over the military power must be accepted in a restricted sense and that there are unmistakable signs of a growing tendency to depart from old traditions.

VANDERVELDE'S LITTLE BOOK ON "Industrial Evolution," reviewed in the ANNALS some months ago, has been translated into German²² and into English. Although Vandervelde is a university professor by profession, he has for some years been practically the leader of the Socialistic movement in Belgium. His views are in the main those of the German scientific Socialists of the school of Marx; but his wonderfully clear and forcible style and manner of presentation are all his own. The translation into German is the work of Dr. Suedekum, member of the German Reichstag.

REVIEWS.

The Police Power. Public Power and Constitutional Rights. By ERNST FREUND, Professor of Jurisprudence and Public Law in the University of Chicago. Pp. xcii, 819. Price, \$6.00. Chicago: Callaghan & Co. 1904.

Those who have known Professor Freund have recognized in him a scholar of unusual promise in the fields of public law and jurisprudence. His monograph on "Empire and Sovereignty," reviewed in a recent number of the ANNALS, showed that he possesses originality of thought as well as scholarship. The treatise which he has now given us on the police power is truly a *magnum opus*. Other works on the police power have appeared in the past, notably the treatises of Russell, Prentice and Tiedman, but they have either lacked the elements of scientific treatment and arrangement or comprehensiveness of treatment. We have in Professor Freund's treatise the work of a public lawyer trained in American and Continental schools of jurisprudence and consequently his work is marked by a breadth of view which does not characterize the older treatises. Professor Freund restricts his conception of the police power to that group of activities designed to promote the public welfare through restraints upon the use of liberty and property and therefore excludes from his work much of what has sometimes been included under the police power. He points out that the mass of the decisions on the subject reveal the police power not as a fixed quantity but as the expression of social, economic and political conditions and that as

²²*Die Entwicklung zum Socialismus.* By Emile Vandervelde. Translated into German by Dr. Albert Suedekum. Pp. 231. Berlin: (Verlag der Socialistischen Monatshefte) 1903

these conditions vary the police power must continue to be elastic; that is, capable of development. The most remarkable feature of the police power in the United States is that it is practically a growth of the last quarter of a century. Comparatively few—almost none in fact—of the thousands of statutes and decisions to which Professor Freund makes reference have their origin previous to the Civil War. During the brief period since then there has appeared an enormous volume of legislation and judicial interpretation relating to the public health, safety, morals and the various social and economic interests of society. That activity will increase with the congestion of population in the urban centers and the increasing complexity of modern civilization there can be little doubt. An interesting revelation of Professor Freund's work is the fact that a large and increasing amount of Federal activity now falls within the domain of the police power, in spite of the belief of the framers of the Constitution that they had left to the individual States the care and regulation of the various social and economic interests of their inhabitants. This activity is both positive and negative. The former finds its source mainly in the power of Congress over interstate commerce and includes such legislation as that relating to shipping, navigation, combinations in restraint of trade, the suppression of traffic in lottery tickets, and legislation relating to liquor, oleomargarine, adulterated foods and other objectionable businesses of an interstate character. In view of all this, Professor Freund correctly affirms that it is impossible to deny that the Federal Government exercises a considerable police power of its own (p. 63), and asserts that it must also be regarded as firmly established that the power over commerce while primarily intended to be exercised in behalf of economic interests may be employed for the protection of the public safety, comfort and morals. That is to say, the power of Congress to "regulate" commerce as interpreted by the recent decisions of the Supreme Court means vastly more than merely to "prescribe rules" as Marshall understood it. More important than the positive police legislation of Congress is the negative power of control exercised by the Supreme Court over the police activities of the States, in virtue of the fourteenth amendment. Professor Freund points out that the prohibitions upon the police powers of the States, established by this amendment and interpreted by the Supreme Court in the Slaughter House Cases to apply only to discriminating legislation against the negro race are no longer so restricted in their application, but apply with equal force to all persons and even to corporations. It is significant that there is hardly any important police legislation which has not been questioned in the Supreme Court as violating the fourteenth amendment and the Court has uniformly entertained jurisdiction and examined the merits of all such cases. Indeed, reference to the recent decisions shows that a large percentage of the cases now decided by that tribunal have their origin in the police legislation of the States.

In arrangement Professor Freund's treatise is logical and scientific. Its value to the student is enhanced by an elaborate table of contents covering twenty-three pages, a table of not less than five thousand cases cited, copious footnotes and a comprehensive index of sixty-two pages.

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